

**BOARD OF COMMISSIONERS
FOR THE
THE TOWN OF UPPER MARLBORO**

DRAFT

ORDINANCE: 2019-07
SESSION: Regular Town Meeting
INTRODUCED: September 10, 2019

AN ORDINANCE OF THE TOWN OF UPPER MARLBORO TO AMEND ORDINANCE 2016-02 ENTITLED “VEHICLE & TRAFFIC” TO MODIFY THE DEFINED PARKING METER ZONE FOR JUDGE’S DRIVE; AND AUTHORIZE THE POLICE DEPARTMENT TO IMMOBILIZE USING A “BOOT” OR OTHER DEVICE OR TAKE INTO CUSTODY AND IMPOUND ANY UNATTENDED VEHICLE, INCLUDING THOSE VEHICLES REGISTERED WITHIN THE STATE OF MARYLAND, FOR WHICH THREE (3) OR MORE OUTSTANDING PARKING OR PARKING METER VIOLATION CITATIONS HAVE BEEN ISSUED WITHIN A PRIOR CONSECUTIVE EIGHTEEN (18) MONTH PERIOD; BY PROVIDING FOR AN INFORMAL HEARING BEFORE THE CHIEF OF POLICE OR HIS DESIGNEE TO DETERMINE WHETHER PROBABLE CAUSE EXISTS TO CONTINUE TO IMMOBILIZE, OR TOW AND IMPOUND THE VEHICLE; TO REQUIRE NOTICE BY MAIL TO THE OWNER; TO REQUIRE THAT ALL OUTSTANDING UNPAID CITATIONS PAID PRIOR TO VEHICLE RELEASE AND GENERALLY RELATING TO VEHICLES AND TRAFFIC.

WHEREAS, the Town Charter, Section 82-63 states that the Town shall have control of all public ways in the Town except such as may be under the jurisdiction of the Maryland State Roads Commission or the County Commissioners for Prince George’s County and subject to the laws of the State of Maryland and said Charter, the Town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the Town; and

WHEREAS, pursuant to Transportation Art., § 25-102(a)(1) and § 21-1001 *et seq.* of the Annotated Code of Maryland, the Town of Upper Marlboro (the “Town”) has the authority to regulate or prohibit the stopping, standing or parking of vehicles; and

WHEREAS, pursuant to LG Art., § 5-205(d)(1) of the Annotated Code of Maryland, a municipality may establish and collect reasonable fees and charges associated with the exercise of a governmental or proprietary function exercised by the municipality; and

WHEREAS, on July 12, 2016, the Board of Commissioners enacted Ordinance 2016-02 (Vehicle and Traffic Ordinance) thereby consolidating, revising, updating and codifying eighteen separate ordinances of the Town of Upper Marlboro enacted beginning in 1976 through 2014; and

WHEREAS, on August 14, 2018, the Board of Commissioners enacted Emergency Ordinance 2018-05 thereby designating new parking meter zones along Judges Drive; and

CAPITALS : Indicate matter to be added to existing law
[Brackets] : Indicate matter to be deleted from existing law
Asterisks * * * : Indicate that text is retained from existing law but omitted herein.

WHEREAS, on November 27, 2018, the Board of Commissioners enacted Emergency Ordinance 2018-11 thereby designating new parking meter zones along Governor Oden Bowie Drive and part of Elm Street; and by further amending, ratifying and reenacting Subsection B (Commercial vehicle and recreational vehicle) of Section 5 (Parking restrictions), and amending, ratifying and reenacting Subsection E (Boot fee) of Section 10 (Penalties and fees); and

WHEREAS, the Town and Prince George's County have entered into an agreement dated June 10, 2019 whereby the Town has assumed control over all on street metered parking within the Town; and

WHEREAS, the Board finds it to be in the best interest of the Town to further amend Ordinance 2016-02, as amended, as stated hereinbelow.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO, STATE OF MARYLAND, DOES ORDAIN AND ENACT the following changes or amendments to Ordinance 2016-02, as amended:

VEHICLE & TRAFFIC ORDINANCE

* * *

Section 6. Parking Meters

D. Establishment of Parking Meter Zones

The below areas are authorized by the Board of Town Commissioners to be designated as metered parking areas.

1. All street parking in the 14500, 14600, 14700, 14800 & 14900 blocks of Main Street (Route 725), the entirety of Water Street, and the entirety of Elm Street.
2. The Town-owned Church Street Parking lot located at 14525 Church Street.
3. The north side of Old Mill Road, and the south side of Pratt Street.
4. ~~[A]~~ FIVE (5) SPACES OF street parking along ~~[the entirety]~~ A PORTION of Judges Drive (OP 4662) NEAR PRATT STREET.
5. All street parking along the entirety of Governor Oden Bowie Drive.
6. Other areas as set by the Board of Town Commissioners by amending this Ordinance.

CAPITALS : Indicate matter to be added to existing law (Ord. 2016-02, as amended)
[Brackets] : Indicate matter to be deleted from existing law
Asterisks * * * : Indicate that text is retained from existing law but omitted herein.

SECTION 9. VEHICLE IMPOUND AND TOWING

A. The Police Department may immobilize using a “boot” or other device, or take into custody and impound:

1. Any unattended vehicle [~~not registered within the State of Maryland~~] for which three (3) or more outstanding parking or parking meter violation citations issued within a consecutive eighteen (18) month period.
2. Any vehicle parked or disabled in a “no parking at any time, tow-away zone” zone; blocking a private driveway without the permission of the property owners; parked in an area designated as a fire lane; within ten (10) feet of a fire hydrant, or; parked on any sidewalk.
3. Any vehicle displaying improper, illegal or expired license plates or no plates at all parked or left standing, stored or operated on any public street or any property owned or leased by the Town, or upon private property except when the vehicle is parked within a fully enclosed garage, unless said vehicle shall have affixed or attached thereto license plates or markers displayed conspicuously on the front and rear of said vehicle in accordance with the provisions of the Annotated Code of Maryland or, in the case of a nonresident, the State, County or territory where such vehicle is registered.
4. The provisions of Title 25, Subtitle 2, of the Maryland Vehicle Law (§ 25-201 et seq. of the Transportation Article of the Annotated Code of Maryland) shall apply with respect to the removal, storage, reclamation and disposal of any vehicle taken into custody pursuant to Subsection A above.
5. WITHIN FOUR (4) DAYS FROM THE INITIAL DATE OF THE IMMOBILIZATION OR TOWING, THE OWNER MAY REQUEST AN INFORMAL HEARING BEFORE THE CHIEF OF POLICE OR HIS DESIGNEE TO DETERMINE WHETHER PROBABLE CAUSE EXISTS TO CONTINUE TO IMMOBILIZE, OR TOW AND IMPOUND THE VEHICLE. SAID RIGHT TO A HEARING SHALL BE DEEMED TO HAVE BEEN WAIVED FOUR (4) DAYS FROM THE INITIAL DATE OF THE IMMOBILIZATION OR TOWING.
6. WHENEVER A VEHICLE HAS BEEN IMMOBILIZED OR IMPOUNDED, THE POLICE OFFICER OR OTHER AUTHORIZED OFFICER SHALL NOTIFY THE REGISTERED OWNER BY MAIL OF ANY ACTION TAKEN.
7. THE TOWN SHALL NOT BE LIABLE FOR ANY DAMAGE TO A MOTOR VEHICLE DUE TO THE ACTIONS OF THE OWNER OR ANY OTHER UNAUTHORIZED PERSON ATTEMPTING TO REMOVE THE BOOT DEVICE OR OPERATE SUCH MOTOR VEHICLE WITH SUCH DEVICE ATTACHED.

CAPITALS : Indicate matter to be added to existing law (Ord. 2016-02, as amended)
[Brackets] : Indicate matter to be deleted from existing law
Asterisks * * * : Indicate that text is retained from existing law but omitted herein.

- C. In addition to any information required to be contained in the notices given under Title 25, Subtitle 2, of the Maryland Vehicle Law, information as to the nature and circumstances of the traffic or parking violation or violations on account of which a vehicle is impounded shall be given to the owner or other person normally in charge of such vehicle.
- D. In addition to paying all towing, preservation and storage charges or fees resulting from taking or placing the vehicle in custody, the owner or person normally in charge of such vehicle shall also be liable for any fine, fee or forfeiture resulting from the violation or violations for which the vehicle was impounded and/or immobilized, and such vehicle shall not be released until either written receipt is displayed showing payment of such fine, fee forfeiture and/or collateral, with said fine, fee, forfeiture and/or collateral amount to be set by ordinance or resolution of the Board of Town Commissioners, and such violation is posted for appearance of the owner or person normally in charge of such vehicle in the District Court of Prince George's County to answer the violation or violations on account of which the vehicle was impounded.
- E. Any vehicle found in violation of this section is subject to impoundment.
- F. VEHICLES IMMOBILIZED OR IMPOUNDED PURSUANT TO THIS ORDINANCE WILL BE RELEASED TO THEIR LAWFUL OWNER, OR PERSON ENTITLED TO POSSESSION, UPON A SHOWING OF ADEQUATE EVIDENCE OF A RIGHT TO ITS POSSESSION AND UPON THE PAYMENT OF ALL ACCRUED FINES, FEES AND COSTS FOR EACH OUTSTANDING UNPAID CITATION OR SUMMONS AND, IN ADDITION THERETO, THE CHARGES FOR BOOTING, TOWING AND STORAGE. THE RELEASE SHALL BE SIGNED BY AN AUTHORIZED OFFICER OR AGENT.

* * *

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that said Board may set the fines, penalties, and fees associated with violating this Ordinance from time to time by resolution.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that said Board may set rates and time frames for parking metered zones established by this Ordinance by resolution.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that said Board may establish and regulate parking zones, restricted parking zones, and permit parking zones by resolution, as long as it is advertised in a newspaper of general circulation no less than fifteen (15) days prior to the Town Meeting in which it is to be voted upon. However, the President of the Board has the authority to temporarily enact such restrictions for special circumstances for a period no longer than fifteen (15) days without the approval of the Board of Town Commissioners.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that any prior ordinances adopting and enacting any provision of this Ordinance or any other ordinance or resolution previously adopted pertaining to a

CAPITALS : Indicate matter to be added to existing law (Ord. 2016-02, as amended)
 [Brackets] : Indicate matter to be deleted from existing law
 Asterisks * * * : Indicate that text is retained from existing law but omitted herein.

subject or subjects embodied by the title of this Ordinance or the provisions found in conflict herein shall be deemed repealed and superseded by the provisions of this Ordinance, and should a previously enacted ordinance cover a provision or subject that is not covered by this Ordinance, it shall remain in full force and effect unless it directly conflicts with the express language of this Ordinance.

AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this Ordinance 2019-07 shall change and amend Ordinance 2016-02, as amended by Emergency Ordinance 2018-05 and Emergency Ordinance 2018-11.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Board of Commissioners.

AND BE IT FURTHER ENACTED AND ORDAINED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this Ordinance shall be posted in the Town Hall office, and it or a fair summary thereof, shall be published once in a newspaper of general circulation in the Town.

Adopted this _____ day of _____, 2019.

THE TOWN OF UPPER MARLBORO,
BOARD OF COMMISSIONERS

Wanda Leonard, President

Linda Pennoyer, Commissioner

Attest:

Clerk

Kai Bernal-Leclaire, Commissioner

CAPITALS : Indicate matter to be added to existing law (Ord. 2016-02, as amended)
[Brackets] : Indicate matter to be deleted from existing law
Asterisks * * * : Indicate that text is retained from existing law but omitted herein.